

**YORK'S RESPONSE IN OPPOSITION TO DEFENDANTS'  
MOTION TO STRIKE PLAINTIFF'S SECOND AMENDED ORIGINAL COMPLAINT**

**EXHIBIT A**



1 detrimental to the sale and distribution of the products  
2 or to the reputation or goodwill of York or the  
3 products."

4 Q. Does this Section 6.6(e) from which you just  
5 read --

6 A. Uh-huh.

7 Q. -- mean that if Delta Casket Enterprises  
8 ceased selling York products and began selling  
9 Batesville products, that that would be detrimental to  
10 the sale and distribution of -- of York products?

11 A. Sir, it -- it means what it says. They will  
12 not do anything in any manner -- they will -- the  
13 distributor agrees that it will not act in any manner  
14 detrimental to the sale and distribution of the products  
15 or to the reputation of goodwill of York or the  
16 products.

17 I can't answer the hypothetical as to  
18 whether or not selling a Batesville product would  
19 violate that provision. I can answer that what has  
20 transpired is a violation of that provision.

21 Q. What injury does York contend that it has  
22 suffered as a result of Horizon's alleged interference  
23 with a contract?

24 A. Which contract?

25 Q. Well, which contract does York contend that

1 Horizon has interfered with?

2 A. It has interfered with Royal's contract, Delta  
3 Casket Enterprises' contract, Warfield-Rohr's contract,  
4 York Southern, and Yorktowne's contract and Delta's --  
5 Delta Casket Enterprises' expired contract.

6 If I hadn't said that earlier, excuse me  
7 if I've repeated myself.

8 Q. What injury does York contend that it has  
9 suffered as a result of Horizon's alleged interference  
10 with Royal's distributor agreement?

11 A. Lost sales and profits and causing them to  
12 breach their contractual obligations to use the best  
13 efforts under the agreement and not do any harm as  
14 described earlier.

15 Q. What is the amount of the alleged injury that  
16 York contends that it has suffered?

17 A. I'm not sure that we have quantified the  
18 damages. But I'm sure our -- our -- we will retain an  
19 expert to assist us with that, and we will be looking at  
20 the lost discounts, lost sales and the profits  
21 therefrom.

22 Q. What injury does York contend that it has  
23 suffered as a result of Horizon's alleged interference  
24 with Delta Casket Enterprises' distributor agreement?

25 A. The injuries derived from the breach of the

1 contract that was just tortiously interfered with by  
2 Billy Grubbs, Gerald Kilpatrick and Delta Casket  
3 Company, are the loss of sales and profits in that  
4 territory, as well as any diminution of our goodwill in  
5 that territory.

6 Q. What is the amount of the alleged injury that  
7 York contends it has suffered?

8 A. We will retain an expert witness to help us  
9 develop that information, sir. I am not that person.

10 Q. What injury does York contend that it has  
11 suffered as a result of Horizon's alleged interference  
12 with Warfield-Rohr's agreements with York?

13 A. We are alleging -- I want to be clear here.  
14 We're not -- when you're isolating an individual  
15 defendant here, I don't want to make claim that only one  
16 of those defendants is responsible for the tortious  
17 interference.

18 This is a collective scheme. So, the  
19 tortious interference claim really relates to the  
20 tortious interference that Horizon and others have  
21 caused having interfered with the distribution  
22 agreements of the various parties mentioned.

23 Q. What injury does York contend that it has  
24 suffered as a result of Horizon's alleged interference  
25 with Warfield-Rohr's agreements with York?

1 THE STATE OF TEXAS )

2 COUNTY OF HARRIS )

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4  
5  
6 I, DONNA L. LeVASSEUR, a Certified Shorthand  
7 Reporter in and for the State of Texas, do hereby  
8 certify to the following:

9 That the witness, JOSEPH C. BARTOLACCI, VOLUME 2,  
10 was duly sworn by the officer and that the transcript of  
11 the oral deposition is a true record of the testimony  
12 given by the witness;

13 That the deposition transcript was submitted on  
14 \_\_\_\_\_, 2006, to the witness, or to the  
15 attorney for the witness, for examination, signature,  
16 and return to Worldwide Court Reporters, Inc., by  
17 \_\_\_\_\_, 2006.

18 That the amount of time used by each party at the  
19 deposition is as follows:

20 Mr. Charles E. Frost, Jr. - 4 hours, 16 minutes

21 Mr. Douglas H. Elliott - 1 hour, 43 minutes

22 I further certify that I am neither counsel for,  
23 related to, nor employed by any of the parties or  
24 attorneys in the action in which this proceeding was  
25 taken, and further that I am not financially or

1 otherwise interested in the outcome of the action.

2 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this, the  
3 \_\_\_\_\_ day of April, 2006.

4  
5 *Donna LeVasseur*

6  
7 DONNA L. LeVASSEUR, TEXAS CSR NO. 4785  
8 Expiration Date: 12-31-07

9  
10 WORLDWIDE COURT REPORTERS, INC.  
11 Firm Registration No. 223  
12 3000 Wesleyan, Suite 235  
13 Houston, Texas 77027  
14 (800) 745-1101  
15  
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